

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DALE MCCLENDON,	:	
	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION
	:	No. 23-138
	:	
THE SCHOOL DISTRICT OF	:	
PHILADELPHIA,	:	
	:	
Defendant.	:	

ORDER

This 28th day of June, 2023, for the reasons set forth in the accompanying memorandum, it is hereby **ORDERED** that:

1. Defendant's Motion to Dismiss Plaintiff's Third Amended Complaint, (ECF 9) is **GRANTED** in part and **DENIED** in part.
2. As to Plaintiff's First Amendment claim set forth in Count I, the Motion is **GRANTED** and this claim is **DISMISSED** without prejudice.
3. As to Plaintiff's equitable estoppel and judicial estoppel claims set forth in Counts III and IV, the Motion is **GRANTED** and these claims are **DISMISSED** with prejudice.
4. As to Plaintiff's due process claim set forth in Count I and his breach of contract claim set forth in Count II, as well as Plaintiff's request for declaratory judgment set forth in Count V, the Motion is **DENIED**.
5. Defendant's Motion to Dismiss Plaintiff's Second Amended Complaint, ECF 4, is **DENIED** as **moot**.

/s/ Gerald Austin McHugh
United States District Judge